

**APPENDIX 5 South Oxfordshire District Council's performance 1 January 2020 to 31 December 2020 <sup>1</sup>quality of decisions – major appeals allowed (overturned)**

<b>Application Reference</b>	<b>Site Address</b>	<b>Description of Development</b>	<b>Decision Process</b>	<b>Appeal Process</b>	<b>Appeal Decision</b>	<b>Costs</b>
<a href="#">P18/S3143/O</a>	DAF Trucks Limited, Thame	Hybrid application for 1511sqm of offices (Class B1) and up to 129 dwellings (outline permission) and erection of 68 bed care home (full permission)	Committee overturn	Hearing  11 February 2020	Appeal allowed 27 March 2020	N/A
<p>SUMMARY: Committee members considered that the scheme would result in the unacceptable loss of employment and lacked adequate marketing of the whole site. In addition, a completed S106 agreement securing affordable housing and infrastructure was required and had not been presented at the application stage.</p> <p>The Inspector attached significant weight to the fact that the office building benefitted from a prior approval enabling it to be converted into flats and that had a realistic prospect of being implemented. In addition, the Inspector agreed with the appellant's evidence that the warehousing was no longer viable based on marketing that had been undertaken. A completed S106 was submitted to overcome those grounds of refusal.</p> <p>Thame Town Council sought to legally challenge the decision but were unsuccessful.</p>						

<sup>1</sup> <https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics>

<a href="#">P18/S0003/FUL</a>	Wallingford Portcullis Social Club, Wallingford	Part demolition, part redevelopment and change of use to provide 14 residential units	Committee overturn	Written representations	Appeal allowed 20 April 2020	
<p>SUMMARY: Committee members considered the proposal represented an overdevelopment of the site that would increase pedestrian and vehicular activity and would be harmful to the safety and convenience of all users of the public highway.</p> <p>The Inspector noted the development would not provide car parking on site (only bicycle parking) and acknowledged the nearby parking restrictions which would require occupiers with cars to use the public car park. Due to the proximity of the site to services and facilities the Inspector was satisfied that future residents' reliance on the private car would be decreased.</p> <p>In the event there would be car ownership the Inspector considered the enforcement parking restrictions outside the planning system would not give rise to highway safety.</p> <p>In relation to pedestrian safety, the historic use was noted as was the creation of an "arcade" which represented an enhancement to pedestrian movement. As such the Inspector was satisfied the proposals would increase the opportunities for safe pedestrian movement.</p> <p>Having regard to the historic use again, the Inspector considered lorry movements would not be materially altered in the locality.</p> <p>Costs: The appellant submitted a costs application against the council on the grounds that we had behaved unreasonably by refusing planning permission against officer recommendation. The application was refused.</p>						
<a href="#">P17/S4254/O</a>	Oxford Brookes University, Wheatley	Demolition of all structures and redevelopment for up to 500	Committee overturn	Public Inquiry	Recover appeal	N/A

		dwelling and associated works.		22-31 October 2020	Inspector recommended allowing.  Secretary of State agreed with Inspector's recommendation	
<p>SUMMARY: Committee members considered the development would harm the Green Belt and heritage assets and would be poorly located having regard to pedestrian connectivity thus increasing reliance on the private car. The absence of a completed S106 agreement securing affordable housing and infrastructure contributions was also grounds for refusal.</p> <p>The Inspector firstly considered the extant development plan policies at that time (the South Oxfordshire Local Plan (SOLP) following the holding direction imposed by the Secretary of State in October 2019 and found that due to conflict with the NPPF (2018), many of the policies relevant in the determination of the appeal, were out of date and limited weight could be afforded to them.</p> <p>The Inspector did not consider there to be any harm<sup>2</sup> to the Green Belt and for that part of the site where development would be inappropriate in the context of NPPF policy, he found special circumstances to justify it. The Inspector found no harm to the character and appearance of the area and considered there would be a number of heritage benefits.</p> <p>In relation to accessibility, the Inspector noted<sup>3</sup> that the Council's stance in respect of this matter directly contradicted the emerging SOLP2023 evidence base. At the Inquiry the council confirmed concerns related only to the development of the south west quadrant of the site. During the course of the application, a package of off-site works was agreed with the aim of improving pedestrian access to key destinations including the primary school, village centre and nearby employment areas, in addition to a public transport contribution which would provide a bus service for 8 years. The Inspector considered the appeal site was well located in relation to services and facilities.</p>						

<sup>2</sup> the decision the Inspector considers the beneficial effect the removal of the tower would have on the openness of the wider Green Belt.

<sup>3</sup> Paragraph 13.75

For this appeal the Inspector confirmed the Council could demonstrate a five-year supply of housing, as such the Inspector did not conduct a thorough examination of the competing supply arguments.

The Secretary of State agreed with the Inspector's recommendation, concluding the appeal should be allowed.

<a href="#">P17/S3231/O</a>	Land at Britwell Road, Watlington	Hybrid application for 183 dwellings and up to 650sqm Class B1 employment floorspace and associated works	Non-determination	Public Inquiry 15-17 October 2019	Appeal allowed 25 February 2020	N/A
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SUMMARY: By the time of the Inquiry, following further assessment work, the council withdrew reasons associated with highway safety and air quality. However, Rule 6 parties<sup>4</sup>, contested these reasons as well as the effect on heritage assets.

The Inspector considered the development would have an acceptable impact on traffic movements, highway safety and air quality. He also found there would be no harm to heritage assets.

<sup>4</sup> Watlington Parish Council and Pyrtton Manor, Shirburn Castle and Environs Alliance (known as the Alliance)



## Appeal Decision

Inquiry held on 15-17 October 2019

Site visit made on 17 October 2019

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 February 2020**

**Appeal Ref: APP/Q3115/W/19/3222822**

**Land at Britwell Road, Watlington**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on a hybrid application for full and outline planning permission.
- The appeal is made by Archstone Projects Limited and Bloor Homes Limited against South Oxfordshire District Council.
- The application Ref P17/S3231/O was originally dated 1 September 2017.
- The development proposed was originally described as "Hybrid application comprising (1) Full planning permission for the demolition of the existing pig farm and its associated buildings; the erection of 183 dwellings (Use Class C3); the realignment of Britwell Road and the creation of a new vehicular access; the creation of a vehicular access from the industrial estate road south of Cuxham Road; public open space; sustainable urban drainage system; landscaping; and other ancillary works, including off-site highway works; and the relocation of a telecommunications mast and equipment; and (2) Outline permission for up to 650sqm of Use Class B1a floorspace with access and all other matters reserved".

### Decision

1. The appeal is allowed and planning permission is granted for a hybrid application comprising (1) Full planning permission for the demolition of the existing pig farm and its associated buildings; the erection of 183 dwellings (Use Class C3); the creation of a new vehicular access from Britwell Road; the creation of a vehicular access from the industrial estate road south of Cuxham Road (to serve the proposed employment area); public open space; sustainable urban drainage system; landscaping; and other ancillary works, including offsite highway works; and the relocation of a telecommunications mast and equipment; and (2) Outline permission for up to 650sqm of Use Class B1(a) floorspace with access and all other matters reserved at Land at Britwell Road, Watlington in accordance with the terms of the application, Ref P17/3231/O, dated 1 September 2017, subject to the 34 conditions set out in the attached schedule.

### Preliminary Matters

2. The original application was submitted in hybrid form with full planning permission sought for residential development and outline planning permission sought for employment development with all matters reserved apart from access. I have had regard to all of the submitted plans, but for the employment development I have treated all elements shown as indicative with the exception of access.

3. Amended plans were received during the lifetime of application including the removal of the Cuxham Road access for the residential part of the development. A revised application form was submitted on 2 August 2018 with an amended description as per the formal decision above. The amendments were subject to further public consultation and so have I dealt with this appeal on the basis of the amended proposal.
4. A second planning application for the same development was submitted in March 2019. It was amended in August 2019 principally to provide a second residential access via Cuxham Road. This application was also appealed on the grounds of non-determination, but that appeal was submitted too late to be linked to this appeal. Thus, I have had no involvement in the second appeal.
5. My late afternoon site visit on 17 October followed an agreed itinerary and incorporated the appeal site and the wider area, including Watlington town centre and the nearby settlements of Pyrton and Shirburn. I also visited the town centre in the early evening of 14 October, and before that, observed the site from Watlington Hill.
6. Following the close of the inquiry, South Oxfordshire District Council ('the Council') highlighted corrections to an air quality impact assessment report by Ricardo Energy & Environment, which the Council had submitted as part of its appeal evidence. The corrections sought to clarify potentially unclear paragraphs in the executive summary and conclusions. I accepted the corrections and gave the main parties the opportunity to comment on them. Those comments have been taken into consideration as part of this decision.

### **Main Issues**

7. The appeal was made against the failure to determine the application within the prescribed period. The Council set out what would have been the 4 reasons for refusal in its statement of case dated April 2019. The first related to traffic movements and highway safety, the second related to air quality effects and the third and fourth related to the provision of affordable housing and infrastructure respectively.
8. The Council stated that reasons 3 and 4 would be overcome by the submission of planning obligations covering these matters. A final draft Section 106 agreement (S106) was submitted at the inquiry. It was completed and executed shortly after the inquiry closed with a signed and dated version submitted. The Council has indicated that it is satisfied with the contents of the S106, which are discussed in more detail below.
9. The Council also withdrew reasons 1 and 2 due to further assessment work and negotiations between the appellants and the Council's highways and air quality specialists. However, two Rule 6(6) parties were involved with this inquiry. Watlington Parish Council (WPC) contested reasons 1 and 2, while the Pyrton Manor, Shirburn Castle and Environs Alliance ('the Alliance') contested reason 1 and also raised concerns regarding the effect on designated heritage assets.
10. Therefore, the main issues for this appeal are:
  - (a) the effect of the development on traffic movements and highway safety;
  - (b) the effect of the development on air quality; and

(c) the effect of the development on the significance of designated heritage assets in Watlington, Pyrton and Shirburn.

## Reasons

11. The appeal site, which currently contains a pig farm and telecommunications mast, is located on the western edge of Watlington adjacent to an existing industrial estate between Britwell and Cuxham Roads. Watlington is a small town that borders the Chilterns Area of Outstanding Natural Beauty (AONB). The B4009 and B480 pass through the town. The former links junction 6 of the M40 with Benson and Wallingford, while the latter connects Henley to Oxford. Watlington Conservation Area covers the entirety of the town centre while Shirburn Street, Couching Street and Brook Street are designated as an Air Quality Management Area (AQMA). To the north of the town lie the small settlements of Pyrton and Shirburn. The parish boundary between Watlington and Pyrton is just to the north of the urban edge of the town.

### *Planning policy context*

12. For the purpose of this appeal, a key part of the development plan is the Watlington Neighbourhood Development Plan 2017-2033 (WNDP) which was made in August 2018. The vision and objectives of the WNDP include the addition of new housing and the realignment of the B4009 to mitigate traffic congestion and air pollution in the town centre, along with the protection and enhancement of the town's environment.
13. The WNDP allocates three housing sites in an arc north and west of the town, including the appeal site as Site A. An indicative route for the realigned B4009 (known as the Edge Road) is shown within the WNDP passing through the three sites and to the edge of the parish boundary, with a dashed line continuing into the parish of Pyrton as far as the existing B4009.
14. The policy for Site A in the WNDP sets out a number of criteria that proposals for the development of residential and workshop/office use would need to comply with. They include the provision of land for a realigned B4009 route and necessary traffic mitigation measures in general and on Britwell Road and Cuxham Road in particular.
15. WNDP Policy P2 on transport requires the safeguarding of a route through the allocated sites. The policy also requires proposals to show how additional traffic generated can be accommodated in a satisfactory way, with severe impacts not supported unless it can be shown that network improvements can limit those impacts. Proposals should demonstrate how they will minimise air pollution caused by vehicle emissions, particularly in the cumulative effect within the AQMA arising from extra traffic generated by new development. Mitigation measures should consider town centre proposals in the WNDP and the most up to date version of the Watlington Traffic Management Plan.
16. The adopted South Oxfordshire Core Strategy 2012 (SOCS) and the South Oxfordshire Local Plan 2011 (SOLP) both predate the WNDP. Neither plan is specific on the above housing sites or the Edge Road. Nevertheless, the plans contain relevant policies relating to transport, air quality, heritage assets and infrastructure provision which are discussed later.
17. The emerging South Oxfordshire Local Plan 2011-2034 (eLP) was submitted for examination in March 2019. It seeks to safeguard land for the Edge Road. The

route is broadly similar to the WNDP. However, the examination is ongoing with no certainty on progress towards adoption. Moreover, a holding direction has been issued by the Secretary of State. It means that the eLP has no effect while the direction is in force.

18. Although not of direct application to the appeal site, the Pyrton Neighbourhood Plan 2019-2034 (PNP) was made in early 2019. It makes no provision for the safeguarding of land for the Edge Road, with one of the sites where the road could go (PYR2) instead allocated as a local gap site to prevent coalescence with Watlington.

*Traffic movements and highway safety*

19. The road network through Watlington town centre has a number of pinch points. This is due to the narrow historic street pattern and proximity of historic buildings to the road, but also due to on-street parking. The central crossroads between Shirburn Street / Couching Street and the High Street and Hill Road is particularly constrained by buildings, mostly notably Watlington Town Hall, and is only wide enough for a single vehicle in some places. Pavements are narrow giving pedestrians little space between buildings and passing traffic. Watlington is within a 7.5t weight restriction zone, but evidence from WPC indicates that the restrictions are often ignored resulting in heavy duty vehicles (HDVs) travelling through the town centre.
20. There was no dispute at the inquiry that around 80-85% of traffic flows within Watlington is through traffic. The B4009 and B480 through Watlington carry traffic between larger settlements as well as to and from junction 6 of the M40. It is clear from both the evidence before me, including my own site visit observations, that the traffic in weekday peak periods becomes significantly congested through the town centre. The on-street parking along Couching Street and Shirburn Street results in queuing traffic in both directions, with the central crossroads a particularly difficult point to navigate. Traffic on Couching Street backs up onto Brook Street and Howe Road. Around the central crossroads, damage has occurred to bollards, kerbs and buildings as a result of vehicle impacts. There have also been a number of personal injury collisions.
21. Pyrton Lane connects Cuxham Road on the western side of Watlington to the B4009 north of the settlement. According to WPC and interested parties, it is used as an alternative route for traffic seeking to avoid congestion in the town centre. It is a narrow lane with limited opportunities for traffic to pass in certain places. It lacks pavement, lighting and good visibility and is considered to present a risk to all users of the lane including pedestrians and local residents. It is expected that the lane would be closed to through traffic once the Edge Road is operational.
22. The appellants have produced transport assessments of the proposed development, including a VISSIM microsimulation model of the town centre. The model has been validated and agreed with Oxfordshire County Council (OCC) as the local highway authority. The modelling assesses journey times along three routes in 2018 and 2019 without the development, and in 2024 without the development, with the development, and with the development plus mitigation. Routes 1 and 2 are from the Pyrton Lane/Station Road junction on the B4009 to the end of Couching Street, where the routes split and one continues west to the Britwell Road/Cuxham Road B4009/B480 junction and the other route continues to the start of Howe Road on the B480. Route 3 is

- along Pyrton Lane from Cuxham Road to Station Road. The mitigation measure tested by the model is the temporary removal of two sections of on-street parking in the town centre at the southern end of Couching Street and the northern end of Shirburn Street. The measures would be secured via the S106 agreement and would be in place until the Edge Road is completed.
23. The modelling indicates that journey times along Routes 1 and 2 by 2024 would increase noticeably from 2018/2019 times with or without the development. With the development and other forecasted housing growth, the increase in the AM peak would be an average of 37 seconds. In the PM peak it would be an average increase of 53 seconds. With mitigation measures proposed by the development, the journey times would fall below 2018 times with a saving of 149 and 89 seconds in the AM and PM peaks respectively. For Route 3 via Pyrton Lane, journey times would remain largely constant across all of the scenarios from 2018 to 2014. WPC and the Alliance have disputed the validity of the model including the effectiveness of the mitigation measures.
  24. It is evident that the model took account of housing developments expected to be delivered in the next 5 years using the Council's June 2019 Housing Land Supply Statement as agreed with OCC. This statement includes the three Watlington housing allocations as well as large sites in Benson, Chinnor and Chalgrove. Therefore, I am satisfied that it assessed the cumulative effect of other development schemes. I am also satisfied that the model includes the higher proportion of HDVs observed in the 2014 Watlington Traffic Study at around 7% of the total, rather than the proportion observed in the 2014 South Oxfordshire Air Quality Plan (and reported in the 2017 Watlington Traffic Management Plan) which is around 4%. If there was greater enforcement of the weight restriction in Watlington, it is likely that the number of HDVs would be less and the journey time results would be better. The model has also been able to more finely assess the Couching Street / Brook Street junction capacity than the PICADY approach.
  25. WPC pointed towards its own 2016 Traffic Modelling report and the 2017 Watlington Parking Study by AECOM which assessed proposals contained within the 2014 South Oxfordshire Air Quality Action Plan, specifically the removal of on-street parking. The WPC report found that the removal would have no significant effect on idling time at the Town Hall where air pollution is at its highest. The AECOM study used a VISSIM model and concluded that the removal would have short term benefits in journey times but the delay to traffic would still increase considerably by 2033 taking into account major development at Chalgrove Airfield scheme. WPC carried out their own traffic modelling research in 2016 which comes to similar conclusions. However, unlike the appellant's VISSIM model, the AECOM study was not validated in terms of being tested against actual flow data. It is not apparent that the WPC report was validated either and it recognises that it has many inadequacies.
  26. WPC noted that on-street parking prevents excessive speeds during quieter off-peak times. However, a safety audit has been carried out and speed cushions would be implemented as part of the mitigation measures to compensate for the removed parking. WPC is concerned about the enforceability of the no parking areas, but there is little evidence that it could not be properly enforced.
  27. I am satisfied based on the evidence before me that up until at least 2024, the effects of the development can be mitigated with a positive effect on traffic

- flows through the town centre and a negligible effect on flows along Pyrton Lane. However, the mitigation is acknowledged as interim by both the appellants and OCC<sup>1</sup> in advance of the competition of the Edge Road. The transport effects beyond 2024 are less clear, although the 2017 AECOM study notes the considerable increase in traffic by 2033 which seems likely given large scale developments in the area.
28. The Edge Road does not feature in the most recent Local Transport Plan for Oxfordshire (updated in 2016), which requires careful modelling for major schemes to understand the effects and considers whether demand can be met more sustainably with ways to make existing road space accommodate more trips. The 2014 South Oxfordshire Air Quality Action Plan considered the option of the Edge Road as a solution for Watlington's AQMA but rejected it on the basis that it was not viable at the time due to lack of commitment from OCC and uncertainties over funding.
  29. The situation since 2014-2016 appears to have moved on to an extent, with land for the Edge Road safeguarded in the eLP. A report by Atkins<sup>2</sup> dated January 2019 on behalf of OCC assesses the transport impacts of different growth scenarios in the eLP, all of which are assessed against the mitigation measure of the Edge Road. OCC is progressing towards a planning application for the Edge Road with the expectation of submitting it in 2020. The current aim is to deliver the road by late 2023 or early 2024.
  30. There is funding allocated from the Oxfordshire Housing Growth Fund towards the Edge Road. The remainder of the costs are expected to be secured through financial contributions in S106 agreements for each of the housing sites around Watlington and in kind through the provision of road infrastructure within each site (in the case of this appeal, via the spine road access onto Britwell Road). A memorandum of understanding exists between OCC and the promoters of land around Watlington, including the site before me, which sets out the roles, responsibilities and expectations of each party as they relate to the promotion and delivery of the Edge Road and the different development areas.
  31. There remains uncertainty regarding the delivery of the Edge Road given the status of the eLP and the need to secure planning permission for the road itself and the other housing sites. It is not the role of this appeal to consider the merits of the Edge Road or the other housing schemes as this will be for a different decision-maker. Neither does granting permission for this development prejudice any of these schemes. However, given that the mitigation measures for the development are interim and predicated on the delivery of the Edge Road in 5 years' time, there is a need to ensure that its delivery is not hampered by this proposal. This means ensuring that land is safeguarded and a financial contribution made towards its construction.
  32. WPC argued that a Grampian condition should be applied to any grant of planning permission to limit the number of dwellings that can be constructed on site before the Edge Road is delivered to no more than 50. WPC's concern is that a precedent would be set for the other housing allocations if permission was granted without such a condition, risking the delivery of the road

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<sup>1</sup> Highways Statement of Common Ground

<sup>2</sup> South Oxfordshire District Council Local Plan Evaluation of Transport Impacts: Stage 3 – Development Scenarios and Mitigation Testing

altogether. It noted that the promoters of the other allocations are prepared to accept such a condition. Notwithstanding the appellants' objection to such a condition, I have little evidence to show that 50 homes would or would not be acceptable in transport terms. Furthermore, should the other housing sites be granted permission, this is likely to involve further safeguarding of land and financial contributions towards the Edge Road.

33. Concluding on this main issue, the development would have an acceptable effect on traffic movements and highway safety. Therefore, it would accord with WNDP Policies 2 and Site A insofar as the proposal is able to demonstrate how additional traffic generated can be accommodated in a satisfactory way and provide necessary mitigation measures. The development would accord with SOCS Policy CSM2 which, amongst other things, requires transport assessments to illustrate the impact on the highway network and the impact of proposed mitigation measures where necessary. It would also accord with SOLP Policy T1 which, amongst other things, requires proposals to be served by an adequate road network.
34. The development would also comply with paragraphs 108 and 109 of the National Planning Policy Framework (NPPF) as any significant impacts on the transport network can be cost effectively mitigated to an acceptable degree, there would not be an unacceptable effect on highway safety, and the residual cumulative impacts on the road network would not be severe.

#### *Air quality*

35. The AQMA in Watlington town centre was first designated in 2009. Based on yearly monitoring data, annual mean concentrations of nitrogen dioxide (NO<sub>2</sub>) have often been above national objective of 40µg/m<sup>3</sup>. The area where recorded levels are highest is around the main pinch point of the Town Hall. There is no dispute that traffic emissions are the main source of NO<sub>2</sub> in Watlington. Emissions also contain particulate matter (PM), which are also produced by braking, tyre friction and dust. Levels of PM are not monitored in Watlington as it is believed they are under the national objective, but they are still an important consideration. WPC presented a range of evidence on the impact of air pollution on human health, none of which was contested.
36. The appellants state that it is standard practice to use the most recent year of monitoring data on which to base any modelling work, as it contains the most up to date measurements, unless there is good reason not to. However, there was disagreement between the appellants and WPC over the accuracy of monitoring data from 2018, which shows that there were no exceedances of the annual mean NO<sub>2</sub> objective.
37. The appellants and WPC note that the measurements from diffusion tubes and automatic analysers are not exact with variations of between 10-25%. Weather conditions and the height at which the tubes are located can affect the measurements. A national bias adjustment factor is normally applied as a result. The 2018 data was subject to a local bias adjustment factor lower than previous years due to a change in diffusion tube provider that year (0.88 in 2018 compared to 0.97 in 2017). There was no other option available in terms of adjustment.
38. The 2017 monitoring data, which showed particularly high concentrations at some locations, has been assessed by the appellants. This revealed very high

measurements for March followed by very low measurements for April. Omitting those two months shows overall measurements for 2017 to be more similar to previous years. The Council has not been able to explain the 2017 anomalies but has confirmed it is happy for the 2018 data to be used as the base year. Based on the above, I am satisfied that the 2018 data is robust for the purposes of modelling.

39. The modelling of impacts in the appellants' July 2019 Air Quality Assessment (AQA) is based on the VISSIM model of traffic data produced by the appellants' highways consultants. Given that the VISSIM model incorporates predicted traffic levels generated by forecast housing developments in the wider area, I am satisfied that cumulative effects have been considered.
40. A number of receptors in the town were modelled in the AQA for annual mean NO<sub>2</sub> and PM concentrations between 2021 and 2024 with and without the development. The modelling of the development impacts excluded assessment of the proposed removal of parking along Couching Street and Shirburn Street. The modelling uses national government projections on traffic volumes and vehicle emissions, with the assumption that emissions are improving as standards increase.
41. The modelling indicates that by 2024, the percentage increase in NO<sub>2</sub> concentrations with the development compared to without would be negligible for all receptors apart from one which would experience a slight adverse impact. The changes in PM concentrations would be negligible throughout.
42. The AQA applies a sensitivity test for NO<sub>2</sub> to take account of worst case assumptions for future emissions of diesel vehicles. By 2024, the percentage increase in NO<sub>2</sub> concentrations with the development compared to without would be negligible for all receptors apart from one which would experience a moderate adverse impact and four which would see a slight adverse impact.
43. Even with the development, the NO<sub>2</sub> and PM levels would be lower than 2018 data by 2024 with or without a sensitivity test. There would be no exceedances of the national NO<sub>2</sub> objective by 2024. The number of adverse impacts are relatively few with only one above slight in sensitivity testing. Therefore, the appellants conclude that the overall air quality effect on human health would be not significant based on EPUK/IAQM<sup>3</sup> guidance *Planning for Air Quality*.
44. WPC queried two apparent anomalies in traffic data underpinning the model. Firstly, where no HDV movements were included in the flows for certain locations in the town centre. The appellants explained that while it was an error, an adjustment factor was applied to account for the lack of HDVs. Furthermore, as the development is not likely to generate significant HDV movements, it was a worst case adjustment. Secondly, WPC noted that the flow level for Watlington Road was very high compared to any other location. The appellants explained that this location is between Watlington and the M40 where the modelled receptor shows low concentrations of NO<sub>2</sub> between 2018 and 2024. As such, even if the flows are an over-estimation, it does not materially affect the modelling results. Based on the evidence before me, I have no reason to disagree with the appellants on either alleged anomaly.

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<sup>3</sup> Environmental Protection UK and the Institute of Air Quality Management

45. Given the relatively few adverse impacts and the predicted non-exceedance of the annual mean objectives, the need to mitigate significant air quality effects does not apply to this appeal. Nevertheless, the EPUK/IAQM guidance promotes good design and best practice whether or not specific mitigation to offset significant effects is required.
46. The Planning Practice Guidance<sup>4</sup> states that mitigation options will need to be locationally specific, will depend on the proposed development, and will need to be proportionate to the likely impact. The appellants have set out a number of best practice measures to reduce NO<sub>2</sub> emissions include electric vehicle charging points, sustainable transport options and greener gas-fired boilers within the development. The removal of on-street parking could also improve air quality by improving traffic flows, although the effects have not been quantified as part of the modelling.
47. WPC challenged the appellants' assumptions and mitigation measures on a number of points. They highlighted evidence that there is still a large number of existing and new diesel vehicles on the road. They noted that electric vehicles will not eliminate air pollution as they will still produce PM through braking, friction and dust. They queried the effectiveness of public transport options given limited rural bus services in Watlington. They also cast doubt on the air quality benefits of removing on-street parking with the 2017 AECOM evidence showing the town hall pinch point would remain a problem. However, the measures would be proportionate based on the level of predicted impacts and with the exception of the boilers, would help to address vehicle emissions in the AQMA. The absence of quantifiable data for these measures is not an issue given the low level of predicted impacts.
48. WPC argued that the Edge Road is the only reliable solution to the air quality problem in the town centre. An assessment by Ricardo Energy and Environment for the Council was published in May 2019 and looked at the impact of the Edge Road on the AQMA. The assessment was subject to post-inquiry corrections as noted above. Increases in traffic flows indicate that NO<sub>2</sub> concentrations are predicted to remain within 10% of the national annual mean air quality objective on parts of Couching Street by 2024 without the Edge Road in place. However, predicted improvements in vehicle emissions indicate that all parts of Watlington would fall below the objective by this time. The objective was exceeded along the middle of the carriageway on Couching Street in 2018, but this situation would improve and concentrations would be below the objective at the locations where it applies. Along with air quality evidence submitted with the appeal, the Ricardo assessment formed the basis for the Council withdrawing their reason for refusal on air quality. While the Edge Road would likely improve air quality, the impact of the development without it would not be significant in the short to medium term.
49. WPC referred to a recent Court of Appeal judgment<sup>5</sup> which upheld the Inspector's decision to dismiss an appeal on the basis that specific evidence was not present to show how mitigation measures would address air quality impacts. However, for that appeal, the Inspector had identified moderate and substantial adverse impacts likely to have a significant effect on human health based on the EPUK/IAQM guidance. This required a greater level of mitigation

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<sup>4</sup> Reference ID: 32-008-20191101

<sup>5</sup> Gladman Developments Ltd v SSCLG & Ors [2017] EWHC 2768 (Admin), [2019] EWCA Civ 1543

and certainty of its effectiveness. Therefore, while I have had regard to the judgment, it does not alter my findings based on the evidence before me.

50. In conclusion, the development would have an acceptable effect on air quality. Therefore, it would accord with WNDP Policy 2 insofar as the proposal is able to demonstrate how it will minimise air pollution caused by vehicle emissions, particularly in the cumulative effect within the AQMA arising from extra traffic generated. The development would also accord with SOCS Policy CSM1 which seeks to improve air quality amongst other things, and SOLP Policy EP1 which will not permit proposals that would have an adverse effect on people and the atmosphere unless effective mitigation measures will be implemented.
51. The development would also comply with NPPF paragraphs 180 and 181 which require proposals to take account the likely effects of pollution on health, living conditions and the natural environment and to sustain and contribute towards compliance with national objectives for pollutants taking into account the presence of AQMAs and the cumulative impacts from individual sites in local areas. The NPPF also seeks opportunities to improve air quality or mitigate impacts, which the development would address.

#### *Heritage assets*

52. While there are no designated heritage assets within the appeal site, there are a significant number within a 1.5km radius particularly to the east and north. Watlington Conservation Area covers the town centre and extends as far as the industrial estate on Cuxham Road. Its character and appearance derives from the historic street pattern of a small market town, with multiple historic buildings, many of which are listed. This in turn informs its significance. Notable listed buildings include the Grade II\* Town Hall dating from 1665 with a distinctive red brick and tiled roof appearance. Most of the listed buildings have an urban setting that informs their significance, with the passage of people and traffic forming part of that setting. The conservation area has a rural hinterland which forms part of its setting and contributes to its significance.
53. To the north of Watlington is a cluster of heritage assets at the small village of Pyrton which is set back from the B4009 and B480 by Pyrton Lane. Pyrton Manor is a Grade II\* listed house dating from the early 17<sup>th</sup> century with later alterations. It is surrounded by a non-designated historic parkland which forms part of the Manor's setting. Pyrton Conservation Area incorporates the Manor, its parkland and the village of Pyrton and contains several listed buildings including the Grade II\* church. The significance of the heritage assets at Pyrton is informed by their rural setting.
54. To the north-east of Watlington is another cluster of heritage assets at the hamlet of Shirburn adjacent to the B4009. Shirburn Castle is Grade I and dates to the 14<sup>th</sup> century with later alterations in the 18<sup>th</sup> and 19<sup>th</sup> centuries. It is surrounded by a Grade II registered park and garden of the same name which chiefly dates to the 18<sup>th</sup> and 19<sup>th</sup> centuries as a designed landscape. Shirburn Conservation Area covers the castle and park as well as the hamlet and includes other listed buildings such as the Grade II lodge on the B4009. The significance of the heritage assets at Shirburn is informed by their rural setting albeit adjacent to a busy B road.
55. It was generally accepted at the inquiry that there is no intervisibility between the appeal site and the heritage assets at Pyrton and Shirburn due to the

- distance and intervening landscape. The NPPF definition of setting is not restricted to visual elements, but it is very difficult to say that the site forms part of the surroundings in which the heritage assets at Pyrton and Shirburn are experienced. Therefore, the existing site makes no contribution towards the significance of these heritage assets.
56. There is also little intervisibility between the site and Watlington Conservation Area due to the industrial estate and housing on Britwell Road. It lies on the approaches to the conservation area along Britwell and Cuxham Roads, but this is seen against the backdrop of modern industrial and residential buildings. While part of the rural hinterland to Watlington, the site itself has low landscape value given its current agricultural use. Therefore, its contribution towards the significance and setting of the conservation area and the listed buildings within it is low.
57. The development in terms of the physical changes to the site itself would not detrimentally impact on the significance of heritage assets at Pyrton and Shirburn given the distance and intervening landscape. Traffic generated by the development could travel along Pyrton Lane and the B4009 and go past some of the heritage assets including the two parklands, the two conservation areas and the listed lodge. This could have an effect in terms of noise and light pollution and could contribute to damage to brickwork either side of the access road into Shirburn from water spray. However, the estimated number of vehicle trips generated by the site would be small when set against the context of existing traffic movements along Pyrton Lane and the B4009. As the appellant's transport evidence notes, the percentage increase in traffic of around 3-5% would be within the normal daily variation in traffic levels. Thus, the additional movements would have a negligible effect on the significance of heritage assets in Pyrton and Shirburn and not cause any harm.
58. The development would not be visible from Watlington Conservation Area or its listed buildings. Some built form would be visible from the two approaches, but it would be set back into the site and seen against the context of existing modern development. Therefore, there would be no adverse effect on the setting of the conservation area or the listed buildings. Traffic movements from the development travelling through the town centre could have an effect in terms of noise, vibration and air quality and could contribute to damage to buildings from spray or collisions. However, as above, the percentage increase in additional traffic movements would be small and imperceptible against existing daily flows. Thus, the effect on the significance of the conservation area and its listed buildings would be negligible and the development would not cause any harm.
59. It is conceivable that the development of housing sites on the north side of Watlington and the building of the Edge Road along the route indicated in the WNDP could have an effect on the significance of designated heritage assets at Pyrton and Shirburn due to the changes within their setting. However, it has not been demonstrated that by allowing this appeal the construction of the other housing sites and the Edge Road becomes inevitable. The other housing sites are in different ownership and subject to live planning applications. An application for the Edge Road has yet to be submitted. Each proposal would need to be assessed on a range of issues, including the effect on heritage assets, weighing up any harm against the benefits. This is a matter for decision

makers other than me, based on the evidence presented to them for each proposal. As such, I am unable to consider this matter any further.

60. In conclusion, the development would have an acceptable effect on the significance and setting of designated heritage assets at Watlington, Pyrton and Shirburn. Therefore, it would accord with SOCS Policy CSEN3 and SOLP Policies CON5, CON7 and CON15 which seek to conserve and enhance heritage assets including listed buildings, conservation area and historic parks and gardens and their settings. It would also accord with WNDP Policies P1 and Site A which seek to sustain and take into account heritage assets in the locality and the objectives and Policy BNE1 of the PNP to conserve and enhance Pyrton's heritage assets and their settings. The development would accord with Section 16 of the NPPF which seeks to sustain the significance of heritage assets and gives great weight to their conservation. It would also preserve the setting of listed buildings in line with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### *Planning obligations*

61. The completed and executed S106 contains a number of planning obligations. Planning obligations are required to meet the 3 statutory tests of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) which are repeated in NPPF paragraph 56. The tests are that the obligation is (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development, and (iii) fairly and reasonably related in scale and kind to the development.
62. The S106 would secure 40% affordable housing equating to a total of 73 dwellings plus a financial contribution towards affordable housing for the fractional unit. The tenure mix would be 74% affordable rented and 26% shared ownership. This would be broadly in line with SOCS Policy CSH3. Given the policy context, I consider that this provision would meet the 3 tests and so I can take the affordable housing obligations in Schedule 1 into account.
63. SOCS Policy CSI1 sets out the overarching policy context for the provision of infrastructure and services to meet the needs of the development. This is supported by the Section 106 Planning Obligations Supplementary Planning Document 2016 (SPD). The SPD and SOLP Policies D10 and D12 seeks contributions towards waste management and public art, while the SPD also seeks provision towards street naming. The S106 would provide financial contributions towards all three aspects. The contributions would meet the 3 tests and so I can take the obligations in Schedule 2 into account.
64. The SPD and SOLP Policies R2 and R6 aim to secure outdoor playing space and public open space for informal recreation for residents of new housing developments. The S106 would ensure the provision, management and maintenance of play areas, informal kickabout space and other public open space. The amount of public open space would exceed the policy requirement. The provisions would meet the 3 tests and so I can take the open space obligations in Schedule 3 into account.
65. SOLP Policy T1(iii) and SOCS Policy CSM1(v) and (viii) promote sustainable modes of transport including the use of buses, cycling and walking. SOCS Policy CSR3 encourages proposals that provide rural services and facilities and transport initiatives that improve movement. The S106 agreement would make

financial contributions towards bus services and new/improved bus stops near to the site to help support this transport mode. There would also be a financial contribution toward the parking order in Watlington Town Centre needed to address the highway effects of the development as discussed above. There would also be a contribution towards the monitoring of the Travel Plan to ensure its delivery. These contributions would meet the 3 tests and so I can take the obligations into account.

66. The S106 also contains an obligation requiring a financial contribution of £1,354,200 towards the Edge Road. The appellants argued that this was not necessary as the development can mitigate its own effects on highway and air quality without relying on the Edge Road. The appellants explicitly asked for this obligation not to be taken into account. However, as noted above, the assessment of highway and air quality effects are predicated on the delivery of the Edge Road, while the removal of on-street parking is intended as a temporary solution until this delivery. The S106 allows for the repayment of the contribution if it has not been spent within a specified time period.
67. On this basis, I consider that the contribution is necessary to make the development acceptable in planning terms. It is directly related as the road would run through the site. The extent of the contribution is based how much each housing development around Watlington should contribute taking into account the money allocated from the Oxfordshire Housing Growth Fund and the sections of road to be delivered in kind by each development. The calculations provided by OCC appear reasonable and so the contribution would be fairly and reasonably related in scale and kind to the development. Therefore, I can take the Edge Road financial contribution into account.
68. The S106 would also safeguard and transfer land for the Edge Road at the parts of the site nearest to Cuxham Road and Britwell Road and secure the delivery of the spine road serving the housing development. These provisions meet the 3 tests and so I can take the obligations in Schedule 5 into account.
69. For the avoidance of doubt, I have also taken into account the administration and monitoring fees for the Council and OCC. They would be fairly and reasonably related in scale and kind to the development and would contribute towards the costs involved in monitoring the development over the lifetime of the planning obligations.

#### *Other matters*

70. The site is visible in panoramic views from high points within the Chilterns AONB including The White Mark on Watlington Hill. However, it is some distance away in such viewpoints and next to existing built development on the edge of Watlington. The Chilterns Conservation Board has concerns about the impact of lighting at night, referring to the dark skies of the AONB. A lighting assessment has been provided by the appellants setting out design measures. While not all of these measures are enforceable, a condition requiring a detailed lighting scheme would help to reduce impacts. There is still the potential for adverse effects after that, but the distance of the site in panoramic views and its position next to existing development in Watlington, combined with the ability to control lighting design, means that the degree of such effects on the setting of the AONB would be no greater than moderate.

71. The adjoining industrial estate generates noise which was audible at the site visit. There are concerns that new development could prejudice existing businesses. However, a terrace of apartments would provide a noise barrier with its properties provided with a suitable mechanical ventilation system. Mitigation measures have also been set out in the appellants' noise assessment for all properties along the shared boundary with the estate. These measures and the ventilation system can be secured via conditions.
72. Noise from traffic using the spine road access is likely to be audible to occupants of existing properties at Windmill Piece, but the appellants' noise assessment indicates that levels would be well within suitable guidelines. Existing properties on Windmill Piece are close to the site boundary. However, there would be a planted landscape buffer and rear gardens between the existing and proposed rear elevations. This would limit any negative effects on the living conditions of existing occupants at Windmill Piece in terms of privacy, outlook, light or noise.
73. The new access onto Britwell Road could have an impact on existing properties on the opposite side in terms of overlooking and car lights. However, the properties have long front gardens that would provide a reasonable separation distance to limit any negative effects. Construction traffic movements can be controlled via condition to reduce the impact on neighbouring roads including Pyrton Lane. Conditions relating to drainage and surface water management would minimise potential flood risk issues in the wider area, while conditions would also address the ecological features including the adjoining stream. It has not been shown that the loss of the existing agricultural use would be significant, while the pig farm to the west is separated from the site by a large field to reduce any adverse effects on future living conditions.
74. While the WNDP refers to the site delivering 140 dwellings, this figure is approximate. Nothing in the evidence before me has shown that the additional 43 dwellings would be unacceptable. The overall design, layout and density of the development would be reasonable while the affordable housing units would be distributed across the site to help with better integration. I have little evidence to show that more employment land is not needed and little evidence that the development would have an unacceptable impact on health services or other existing infrastructure. Accessibility improvements along Cuxham Road would provide better connections from the site to services and facilities within Watlington by non-car modes of transport.

#### *Planning balance*

75. The appellants have not sought to argue that the Council cannot demonstrate a sufficient supply of deliverable housing sites or that the policies which are most important for determining the appeal are out of date. As such, the tilted balance that exists in NPPF paragraph 11(d) has not been applied. Instead, the appellants argued that NPPF paragraph 11(c) applies in terms of approving proposals that accord with an up to date development plan without delay, citing compliance with the WNDP in particular.
76. The development would result in a number of benefits, not least the provision of 183 dwellings, of which 73 would be affordable, and the delivery of 650sqm of Use Class B1(a) floorspace. The site is allocated for similar types of use in the WNDP. The development would provide additional public open space in excess of policy requirements. It would enable improvements to be made to

public transport, cycling and walking infrastructure secured by conditions and the S106, including a Travel Plan and accessibility improvements to the town centre via Cuxham Road. There would be general economic benefits through the construction of the development and the subsequent investment of new residents in local services and facilities.

77. The development would safeguard land for the Edge Road and make a sizable financial contribution towards its construction. Through the proposed removal of on-street parking on Couching Street and Shirburn Street, the development would help to improve journey times and traffic congestion particularly in peak hours until the Edge Road is delivered. As a consequence, the benefits of the proposal carry considerable weight.
78. Impact on the AONB would be no greater than moderate and can be mitigated via lighting design. The impact on existing and future living conditions would not be significant and can be mitigated taking into account existing businesses. The loss of agricultural land also carries little weight. The effect on traffic movements and highway safety, air quality, and heritage assets would be acceptable. There are no grounds for limiting the development to 50 homes until the Edge Road is provided.
79. Therefore, the benefits of the development outweigh the harm. The proposal would comply with the development plan including Policies 2 and Site A of the WNDP, with no material considerations to indicate otherwise.

### Conditions

80. Condition 1 setting out the time limit for commencement of the full planning permission and Condition 2 relating to the approved plans for that permission are necessary for clarity and compliance. Conditions 3 and 4 are necessary as they set out the standard requirements for the approval of reserved matters and implementation of the outline planning permission.
81. Conditions 5 to 20 are required to be pre-commencement conditions as they relate to measures that need to be assessed and agreed before works begin on site. Condition 5 is necessary to ensure that the construction phase of the development is carried out appropriately and requires details of construction traffic management amongst other things. Condition 6 is necessary to ensure that the construction phase protects ecological features on site. Conditions 7 and 8 are necessary to ensure that biodiversity is protected as part of the development itself with enhancement measures delivered. Condition 9 is necessary to protect trees to be retained, while Condition 10 is necessary to ensure that the levels of the development are accurate.
82. Condition 11 is necessary to ensure that impact studies of the water supply are carried out before works commence to ensure that there is sufficient capacity in place for the development. Conditions 12 and 13 are necessary to ensure that adequate drainage measures are provided, while Condition 14 is necessary to address surface water matters. Condition 15 is necessary to ensure that piling operations avoid adverse effects on the environment.
83. Condition 16 is necessary to provide clarity on the delivery of housing and the timing of other conditions and mitigation. Condition 17 is necessary to address any contaminated land issues mindful of the existing and previous uses on site. Conditions 18 and 19 are necessary to address any on-site archaeological

- interest. Condition 20 is necessary to ensure that accessibility improvements on Cuxham Road are agreed and implemented.
84. Condition 21 is necessary to ensure remediation of contaminated land before occupation. Condition 22 is necessary to ensure that any lighting scheme is appropriate to minimise impacts on the setting of the AONB. Conditions 23 and 24 are necessary to ensure that the landscaping of the site is suitable and reflects the character of Watlington. Condition 25 is necessary to ensure that mitigation measures relating to air quality are provided.
85. Conditions 26 and 27 are necessary to ensure that noise mitigation measures are assessed and provided prior to first occupation of relevant units having regard to the adjoining industrial estate. Condition 28 is necessary to ensure that accesses to dwellings are provided before first occupation. Condition 29 is necessary to ensure the implementation of a Travel Plan to promote non-car modes of transport. Condition 30 is necessary to ensure that details of the Britwell Road vehicular access are agreed and implemented before first occupation in the interests of highway safety and good layout.
86. Condition 31 is necessary to ensure that construction hours are appropriate to protect neighbouring residents. Condition 32 is necessary to ensure that the flood risk assessment and its mitigation measures are implemented. Condition 33 is necessary to address any unexpected contamination. Condition 34 is necessary to retain garages in the interests of parking and highway safety.

### **Conclusion**

87. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Tom Gilbert-Wooldridge*

INSPECTOR

**APPEARANCES**

## FOR THE APPELLANTS

Richard Kimblin of Queen's Counsel, instructed by Mark Sitch of Barton Willmore.

He called:

David Knight B.Eng (Hons) FCILT MCIHT	Clarkebond
Dr Clare Beattie BSc (Hons) MSc	Air Quality Consultants Ltd
Eddy Stratford BA (Hons) MCIfA	EDP
Mark Sitch BSc (Hons) DipTP MRTPI	Barton Willmore
James Bonner	Barton Willmore
David Joseph	Bloor Homes

## FOR THE LOCAL PLANNING AUTHORITY

Cain Ormondroyd of Counsel, instructed by the Council's solicitor.

He called:

Tracy Smith	South Oxfordshire District Council
Carmen Cubillas Martinez	South Oxfordshire District Council
Ian Marshall	Oxfordshire County Council
Judith Coats	Oxfordshire County Council

## FOR WATLINGTON PARISH COUNCIL

Councillor Andrew McAuley	Watlington Parish Council
Gill Bindoff	Watlington Neighbourhood Development Plan Advisory Board

## FOR THE PYRTON MANOR, SHIRBURN CASTLE &amp; ENVIRONS ALLIANCE

Simon Randle of Counsel, instructed by Jeffrey Emmett of JCE.

He called:

Robert Williams CEng MICE MTech	Entran Ltd
Richard F Drew FRICS FAAV	
Dr Carole Fry BA (Hons) MSc IHBC	Architectural History & Conservation

## INTERESTED PERSONS WHO SPOKE AT THE INQUIRY

Liz Harris	Local resident
Councillor Anna Badcock	South Oxfordshire District Council
Tim Horton	Watlington Town Hall Trust Body
Jeremey Emmerson	on behalf of Providence Land Limited

**DOCUMENTS SUBMITTED AT THE INQUIRY**

Doc 1	Statement of Common Ground between South Oxfordshire District Council and appellants
Doc 2	Oxfordshire Local Transport Plan 2015-2031 Volume 1
Doc 3	South Oxfordshire District Council Local Plan Evaluation of Transport Impacts: Stage 3 – Development Scenarios and Mitigation Testing
Doc 4	Statement of Common Ground between the Alliance and the appellants
Doc 5	Letter from appellants dated 14 October 2019 providing an update on the emerging South Oxfordshire Local Plan 2034
Doc 6	Bus timetables for Watlington
Doc 7	South Oxfordshire District Council Annual Status Report for air quality dated September 2019
Doc 8	Notes of the meeting on 11 January 2019 between Watlington Parish Council and Oxfordshire County Council regarding the Edge Road
Doc 9	Extract from Court of Appeal judgment [2018] EWCA Civ 610
Doc 10	Draft Memorandum of Understanding for the provision of housing and Edge Road for Watlington
Doc 11	Appellants opening statement
Doc 12	District Council's opening remarks
Doc 13	Watlington Parish Council's opening submission
Doc 14	The Alliance's opening comments
Doc 15	Presentation by Tim Horton on the Town Hall, Conservation Area and Listed Buildings
Doc 15	Presentation by Tim Horton on Watlington's B4009 from Britwell Road to Shirburn Street
Doc 17	Memorandum of Understanding for the provision of housing and Edge Road for Watlington
Doc 18	Email from Liz Harris dated 15 October 2019 with a copy of her presentation
Doc 19	Email from Councillor Anna Badcock dated 15 October 2019 with a copy of her presentation
Doc 20	Email from Harry Davis at Oxfordshire County Council dated 14 October 2019 regarding the microsimulation model
Doc 21	CIL Compliance Statement from South Oxfordshire District Council
Doc 22	South Oxfordshire Section 106 Planning Obligations Supplementary Planning Document
Doc 23	Letter from South Oxfordshire District Council dated 16 October 2019 to the Secretary of State for Housing, Communities and Local Government regarding the temporary direction on the Local Plan 2034

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Doc 24	Note of clarification to inquiry regarding traffic and air quality data
Doc 25	Updated harm versus benefits table from Mr Sitch's proof
Doc 26	Version 2 of suggested conditions
Doc 27	CIL Compliance Statement from Oxfordshire County Council
Doc 28	Clarification of points A and B and pink areas of plan in the S106 agreement
Doc 29	High Court judgment Amstel Group Corporation v SSCLG and North Norfolk District Council [2018] EWHC 633 (Admin)
Doc 30	Final remarks on behalf of the Alliance
Doc 31	Watlington Parish Council's closing statement
Doc 32	Appellant's closing statement

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

Doc 1	Completed and executed unilateral undertaking
Doc 2	Updated conditions
Doc 3	Corrections to the Ricardo assessment
Doc 4	Comments from WPC on the corrections to the Ricardo assessment
Doc 5	Response from the appellants on WPC's comments on the corrections to the Ricardo assessment

## Schedule of Conditions (34)

### Time limit and approved plans relating to the full planning permission

- 1) The development hereby permitted subject of full planning permission shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site Location Plan (Drawing No: SM000-PD-001)
  - Site Context Plan (Drawing No: SM000-PD-002)
  - Street Scenes (Drawing No: SM000-PD-003 Rev. C)
  - Site Sections (Drawing No: SM000-PD-004 Rev. A)
  - Site Layout Colour (Drawing No: SM000-SL-003 Rev. E)
  - Adoption Layout (Drawing No: SM000-SL-004 Rev. B)
  - Garden Check (Drawing No: SM000-SL-005 Rev. B)
  - Garage Planning Drawing (Drawing No: SM0000-PD-GAR-01 Rev. B)
  - Garage Planning Drawing (Drawing No: SM0000-PD-GAR-02 Rev. B)
  - Garage Planning Drawing (Drawing No: SM0000-PD-GAR-03 Rev. B)
  - Garage Planning Drawing (Drawing No: SM0000-PD-GAR-04 Rev. A)
  - Bin and Cycle Store P Planning Drawing (Drawing No: SM0000-PD-BN-CYC-01)
  - Bin and Cycle Store P Planning Drawing (Drawing No: SM0000-PD-BN-CYC-02)
  - Boundary Details (Drawing No: SM000-PD-005)
  - Housetype Planning Drawing SPENCER (Drawing No: SM0000-PD-SPE-01)
  - Housetype Planning Drawing SPENCER (Drawing No: SM0000-PD-SPE-02)
  - Housetype Planning Drawing SPENCER (Drawing No: SM0000-PD-SPE-03 Rev. A)
  - Housetype Planning Drawing CHESTERTON (Drawing No: SM0000-PD-CHE-01 Rev. A)
  - Housetype Planning Drawing CHESTERTON (Drawing No: SM0000-PD-CHE-02)
  - Housetype Planning Drawing CHESTERTON (Drawing No: SM0000-PD-CHE-03)
  - Housetype Planning Drawing CHESTERTON (Drawing No: SM0000-PD-CHE-04 Rev. A)
  - Housetype Planning Drawing BILLINGTON (Drawing No: SM0000-PD-BIL-01 Rev. B)
  - Housetype Planning Drawing BYRON (Drawing No: SM0000-PD-BYR-01)
  - Housetype Planning Drawing BYRON/LYTTELTON (Drawing No: SM0000-PD-BYL-01)

- Housetype Planning Drawing BYRON/LYTTELTON (Drawing No: SM0000-PD-BYL-02 Rev. B)
- Housetype Planning Drawing BYRON/LYTTELTON (Drawing No: SM0000-PD-BYL-03)
- Housetype Planning Drawing LYTTELTON (Drawing No: SM0000-PD-LYT-01 Rev. C)
- Housetype Planning Drawing HEYWOOD (Drawing No: SM0000-PD-HEY-01)
- Housetype Planning Drawing HEYWOOD (Drawing No: SM0000-PD-HEY-02 Rev. A)
- Housetype Planning Drawing MARLOWE (Drawing No: SM0000-PD-MAR-01)
- Housetype Planning Drawing MARLOWE (Drawing No: SM0000-PD-MAR-02)
- Housetype Planning Drawing MARLOWE (Drawing No: SM0000-PD-MAR-03)
- Housetype Planning Drawing BROOKE (Drawing No: SM0000-PD-BRO-01 Rev. B)
- Housetype Planning Drawing SHIRLEY (Drawing No: SM0000-PD-SHI-01)
- Housetype Planning Drawing SHIRLEY (Drawing No: SM0000-PD-SHI-02 Rev. A)
- Housetype Planning Drawing SHIRLEY (Drawing No: SM0000-PD-SHI-03 Rev. B)
- Housetype Planning Drawing HARWOOD (Drawing No: SM0000-PD-HAR-01)
- Housetype Planning Drawing HARWOOD (Drawing No: SM0000-PD-HAR-02 Rev. B)
- Housetype Planning Drawing PEELE (Drawing No: SM0000-PD-PEE-01)
- Housetype Planning Drawing PEELE (Drawing No: SM0000-PD-PEE-02 Rev. A)
- Housetype Planning Drawing DARLTON (Drawing No: SM0000-PD-DAR-01)
- Housetype Planning Drawing DARLTON (Drawing No: SM0000-PD-DAR-02 Rev. B)
- Housetype Planning Drawing DARLTON (Drawing No: SM0000-PD-DAR-03 Rev. C)
- Housetype Planning Drawing SPENCER (Affordable) (Drawing No. PE-SPE-04)
- Housetype Planning Drawing SPENCER (Affordable) (Drawing No. PD-SPE-05)
- Housetype Planning Drawing 2B4P (Affordable) (Drawing No. PD-2B4P-01 Rev B)
- Housetype Planning Drawing 3B5P (Affordable) (Drawing No. PD-3B5P-01 Rev B)
- Housetype Planning Drawing 2B4P(4) (Affordable) (Drawing No. PD-2B4P(4)-01)

- Housetype Planning Drawing 2B4P(4) (Affordable) (Drawing No. PD-2B4P(4)-02)
- Housetype Planning Drawing 2B4P(2) 3B5P(2) (Affordable) (Drawing No. PD-2B4P(2)\_3B5P(2)-01)
- Housetype Planning Drawing 2B4P(2)\_3B5P(2) (Affordable) (Drawing No. PD-2B4P(2)\_3B5P(2)-02)
- Housetype Planning Drawing 2B4P(2)\_3B5P(1) (Affordable) (Drawing No. PD-2B4P(2)\_3B5P(1)-01)
- Housetype Planning Drawing 2B4P(2)\_3B5P(1) (Affordable) (Drawing No. PD-2B4P(2)\_3B5P(1)-02)
- Housetype Planning Drawing 3B5P(1)\_4B6P(1) (Affordable) (Drawing No. PD-3B5P(1)\_4B6P(1)-01)
- Housetype Planning Drawing 3B5P(1)\_4B6P(1) (Affordable) (Drawing No. PD-3B5P(1)\_4B6P(1)-02)
- Housetype Planning Drawing PD-2B3P(14)-01 (Affordable) (Drawing No. PD-2B3P(14)-01 Rev. A)
- Housetype Planning Drawing PD-2B3P(14)-02 (Affordable) (Drawing No. PD-2B3P(14)-02 Rev. A).

Reserved matters and time limit relating to the outline planning permission

- 3) Details of the appearance (including a material schedule), landscaping, layout, and scale (hereinafter called "the reserved matters") of the development subject of outline planning permission shown on SM000-PD-011 Rev A, shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 3 years from the date of this permission or 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later of the two dates.

Pre-commencement conditions

- 5) No development shall commence in respect of the residential phase or employment phase of the development (including any works of demolition), until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be complied with throughout the construction period, and shall provide details of the following:
  - (a) A construction traffic management plan;
  - (b) Vehicle parking facilities for construction workers, other site operatives and visitors;
  - (c) Site offices and other temporary buildings;
  - (d) Loading and unloading of plant and materials;
  - (e) Storage of plant and materials used during construction;
  - (f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- (g) Wheel washing facilities;
  - (h) Measures to control the emission of dust and dirt during construction; and
  - (i) A scheme for recycling/disposing of waste resulting from demolition and construction works;
- 6) No development shall commence in respect of the residential phase or employment phase of the development (including vegetation clearance) until a Construction Environmental Management Plan for Biodiversity (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- (a) Updated ecological surveys for relevant habitats and species (where necessary), update surveys shall follow national good practice guidelines;
  - (b) Mitigation strategy for reptiles (grass snake);
  - (c) Risk assessment of potentially damaging construction activities;
  - (d) Identification of biodiversity protection zones;
  - (e) Practical measures (both physical measures and sensitive working practices) to avoid, reduce or mitigate the impacts on important habitats and protected species during construction;
  - (f) The location and timing of sensitive works to avoid harm to biodiversity features;
  - (g) The times during construction when specialist ecologists need to be present on site to oversee works;
  - (h) Responsible persons and lines of communication; and
  - (i) Use of protective fences, exclusion barriers and warning signs.
- The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.
- 7) Prior to the commencement of the residential development subject of full planning permission, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and approved in writing by the local planning authority. The plan should include both habitat and species enhancements. The BEMP should include:
- (a) Details of habitat creation or enhancements (this should cross reference relevant landscape plans) and include suitably detailed drawings and cross sections;
  - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes;
  - (c) Selection of strategies for creating / restoring target habitats or introducing target species;
  - (e) Selection of specific techniques and practices for establishing vegetation;
  - (f) Sources of habitat materials (e.g. plant stock) or species individuals;
  - (g) Method statement for site preparation and establishment of target features;

- (h) Extent and location of proposed works;
- (i) Details of the biodiversity offsetting metric calculations that clearly demonstrate that the proposals contained in the plan achieve a net gain in biodiversity;
- (j) Measures to conserve and enhance the chalk stream; and
- (k) Details of management and maintenance of new and existing habitats and ecological features, including timing and frequency of management operations and identification of responsible parties.

Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to the completion of the final dwelling.

- 8) Prior to the commencement of the employment development subject of outline planning permission, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and approved in writing by the local planning authority. The plan should include both habitat and species enhancements. The BEMP should include:
- (a) Details of habitat creation or enhancements (this should cross reference relevant landscape plans) and include suitably detailed drawings and cross sections;
  - (b) Details of species enhancements including relevant scale plans and drawings showing the location, elevation and type of features such as bat and bird boxes;
  - (c) Selection of strategies for creating / restoring target habitats or introducing target species;
  - (e) Selection of specific techniques and practices for establishing vegetation;
  - (f) Sources of habitat materials (e.g. plant stock) or species individuals;
  - (g) Method statement for site preparation and establishment of target features;
  - (h) Extent and location of proposed works;
  - (i) Details of the biodiversity offsetting metric calculations that clearly demonstrate that the proposals contained in the plan achieve a net gain in biodiversity;
  - (j) Measures to conserve and enhance the chalk stream; and
  - (k) Details of management and maintenance of new and existing habitats and ecological features, including timing and frequency of management operations and identification of responsible parties.
- Thereafter, the biodiversity enhancement measures shall be developed on site and retained in accordance with the approved details. All enhancements should be delivered prior to commencement of the employment use.
- 9) Prior to the commencement of any site works (including demolition or site clearance) a protected area shall be designated for all existing trees which are shown to be retained, and the trees shall be protected in

accordance with a scheme which complies with the current edition of BS 5837: "Trees in relation to design, demolition and construction" that shall first have been submitted to, and approved in writing by, the local planning authority. The agreed measures shall be kept in place during the entire course of development.

- 10) Prior to the commencement of the residential development subject of full planning permission, detailed plans showing the existing and proposed ground levels of the site together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, shall be submitted to and approved in writing by the local planning authority. Thereafter the residential development shall be carried out in accordance with the approved details.
- 11) Prior to the commencement of the residential development subject of full planning permission, impact studies of the existing water supply infrastructure shall be submitted to and approved in writing by the local planning authority. The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. The works shall then be carried out by Thames Water in line with the agreed details and programme.
- 12) Prior to commencement of the residential development subject of full planning permission, impact studies of the drainage infrastructure shall be submitted to and approved in writing by the local planning authority. The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.
- 13) Prior to the commencement of residential development subject of full planning permission, details of on-site foul drainage proposals shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to the first occupation of the development.
- 14) Prior to the commencement of residential development subject of full planning permission, unless carried out in accordance with the measures detailed in the Flood Risk Assessment and Drainage Strategy (reference WB03178/FR01 Rev v6), detailed sustainable drainage proposals shall be submitted to and approved in writing by the local planning authority.

These should include:

- (a) An assessment of existing and proposed volumes of surface water discharge, with consideration given to long term storage to ensure that the volume of discharge is adequately managed;
- (b) An assessment of existing and proposed discharge rates to ensure that the rate of discharge is adequately controlled to greenfield runoff rates;
- (c) Full details of a sustainable surface water drainage system based on ground permeability tests to BRE 365 and full consideration of groundwater pollution prevention measures;
- (d) Detailed site investigation information to include groundwater monitoring data;
- (e) Design calculations with appropriate climate change allowance and storage areas sizing;

- (f) Full Suds construction details and proposals based on the above;
- (g) A condition and level survey of the outfall ditch including appropriate measures for initial and ongoing maintenance;
- (h) Detailed proposed site and floor levels;
- (i) Exceedance flood flow routing;
- (j) Timescale for the works including phasing; and
- (k) A full future management and maintenance plan for the Suds features to ensure the efficient functioning of the on-site Suds.

The scheme shall be implemented in line with the approved details prior to the first occupation of the development (or the phase of the development to which the measures relate).

- 15) With the exception of demolition, site clearance and preparatory works, prior to the commencement of residential development subject of full planning permission, a statement outlining the method for piling foundations shall be submitted to and approved in writing by the local planning authority. The piling shall thereafter be undertaken only in accordance with the approved details.
- 16) With the exception of demolition, site clearance and preparatory works, prior to the commencement of residential development subject of full planning permission, a phasing plan shall be submitted to and approved in writing by the local planning authority. The residential development subject of full planning permission shall thereafter be carried out in accordance with the approved details.
- 17) Prior to each phase (as identified on the phasing plan in condition 16) of residential development subject of full planning permission, no development (or such other date or stage in development as may be agreed in writing with the local planning authority) shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
  - (1) A preliminary risk assessment which has identified:
    - all previous uses;
    - potential contaminants associated with those uses; and
    - a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site.
  - (2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - (3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - (4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-

term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

- 18) Prior to commencement of the development within the specific area identified in Plan EDP 4 within the Archaeology and Heritage Assessment (reference EDP2769\_04c), an Archaeological Written Scheme of Investigation (WSI), relating to the specific area identified in Plan EDP 4, shall be submitted to and approved in writing by the local planning authority.
- 19) Following the approval of the WSI referred to in condition 18, and prior to commencement of any development in the specific area identified in Plan EDP 4 referred to in condition 18 (other than in accordance with the agreed WSI), a staged programme of archaeological mitigation relating to the specific area identified in Plan EDP 4 shall be carried out in accordance with the approved WSI. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication, which shall be submitted to the local planning authority within 12 months of completion of the archaeological works as set out in the WSI.
- 20) Prior to the commencement of the residential development subject of full planning permission, details of the off-site highway works listed at paragraph 6.7.1 of the Transport Assessment (reference WB03178-TA02 Rev 03) and a programme for their delivery shall be submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the agreed details, including through a Section 278 Agreement where necessary, in line with the agreed programme.

#### Pre-occupancy conditions

- 21) No occupation of each phase (as identified on the phasing plan in condition 16) of residential development subject of full planning permission shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy (as required by condition 17) and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.  
  
The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.
- 22) Prior to the occupation of the residential development subject of full planning permission, a lighting scheme for the private lighting shall be submitted to and approved in writing by the local planning authority. The residential development shall be implemented in accordance with the approved scheme in accordance with an agreed programme for its delivery.

- 23) Prior to the occupation of the residential development subject of full planning permission, a scheme for the landscaping of the site, including programme for delivery, the planting of live trees and shrubs (including tree pit specification), the treatment of the access road and hard standings, and the provision of boundary treatment shall be submitted to and approved in writing by the local planning authority. The scheme shall have regard to the Watlington Design Guide 2018. The scheme shall be implemented in accordance with the details prior to the first occupation or use of development and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the local planning authority, shall be planted and properly maintained in a position or positions first approved in writing by the local planning authority.
- 24) Concurrent with the submission of comprehensive details of the proposed landscape works for the residential development, a maintenance schedule and a long-term management plan for the soft landscaping works shall be submitted to and approved in writing by the local planning authority. The scheme shall be consistent with the Biodiversity Enhancement and Management Plan required through condition 7. The schedule and plan shall then be implemented in accordance with the agreed programme.
- 25) The air quality mitigation measures outlined at the 1st, 2nd, 5th and 8th bullet points of paragraph 6.1 in the submitted Air Quality Assessment (Air Quality Consultants report dated July 2018), shall be carried out in accordance with the recommendations and specifications in the report, and incorporated into each individual dwelling prior to its occupation, or incorporated into the communal areas prior to the occupation of the dwellings to which the measures relate. Thereafter, the mitigation measures that are outside the curtilage of private and affordable dwellings shall be retained as approved and properly maintained.
- 26) Prior to the first occupation of plots 11 and 12, plots 50 – 67 and plots 145-148, the noise mitigation measures outlined in the Cole Jarman Noise Mitigation report 16/0767/R3 Rev 4, shall be carried out in accordance with the recommendations and specifications in the report, and shall be retained as such thereafter.
- 27) Prior to the first occupation of plots 50 to 63, an assessment shall be conducted in relation to any mechanical ventilation installed in the terrace apartments, as outlined in the Cole Jarman Noise Mitigation report 16/0767/R3 Rev 4. The assessment shall consider industrial noise 'break-in' via the mechanical ventilation system and noise arising from the system itself, to achieve the limits set out in tables T2 and T3 of the report 16/0767/R3 Rev 4. The results of the assessment, together with any specifications for attenuation, shall be submitted to the local planning authority for approval. The agreed measures shall be carried out prior to the first occupation of plots 50 to 63 and shall be retained as such thereafter.
- 28) Before any of the dwellings hereby permitted are first occupied, the proposed vehicular accesses, driveways and turning areas that serve

those dwellings shall be constructed, laid out, surfaced and drained in accordance with the specification details to be submitted to and approved in writing by the local planning authority. The approved details shall be retained thereafter.

- 29) Prior to the occupation of the residential development subject of full planning permission, the Residential Travel Plan (reference WB03178-TP02 Rev 02) shall be implemented in line with the agreed measures in Section 8.
- 30) Prior to the commencement of the vehicular access shown on drawings SK32 Rev C and SK33 Rev B within the Transport Assessment (reference WB03178-TA02 Rev 03), full construction and geometry details of the proposed vehicular access to the site on the B4009 Britwell Road shall be submitted to and approved in writing by the local planning authority. The access shall be provided prior to the occupation or use of the new development. Visibility splays of 2.4m x 90m are required in both directions. The access and visibility splays shall be provided prior to the occupation of the new development and, thereafter, the visibility splays shall be maintained free from obstruction to vision by either the landowner or Oxfordshire County Council (OCC) highways until such time as the visibility splays are transferred into OCC highways ownership.

#### Compliance conditions

- 31) The hours of operation for construction and demolition works shall be restricted to 07:30-18:00 Monday to Friday and 08:00-13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays.
- 32) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (Flood Risk Assessment and Drainage Strategy (reference WB03178/FR01 Rev v6) and the following mitigation measures detailed within the FRA:
  - All development must lie outside of Flood zone 2 and Flood zone 3.The mitigation measures shall be implemented in accordance with the agreed details prior to occupation of the dwellings and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.
- 33) If, during development, contamination not previously identified, including through the details required through condition 17, is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 34) The garages hereby permitted shall be retained for use as a garage only.



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## Appeal Decision

Hearing Held on 11 February 2020

Site visit made on 11 February 2020

**by Chris Baxter BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> March 2020**

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**Appeal Ref: APP/Q3115/W/19/3228501**

**Daf Trucks Ltd, Eastern Bypass, Thame OX9 3FB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline and full planning permission.
  - The appeal is made by Angle Property PCDF IV (Thame) LLP against the decision of South Oxfordshire District Council.
  - The application Ref P18/S3143/O, dated 10 September 2018, was refused by notice dated 27 February 2019.
  - The development proposed is described as "Hybrid planning application with: Outline planning permission (all matters reserved except for access) sought for demolition of existing buildings and development of 1511 sqm (gross) of offices within Class B1 and up to 129 dwellings within Class C3 and associated works. Full planning permission sought for erection of a 68 bed care home within Class C2 and associated access, vehicular parking, landscaping, ancillary infrastructure and other works."
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### Decision

1. The appeal is allowed and outline/full planning permission is granted for a hybrid planning application for outline planning permission (all matters reserved except for access) sought for demolition of existing buildings and development of 1511 sqm (gross) of offices within Class B1 and up to 129 dwellings within Class C3 and associated works; and full planning permission for erection of a 68 bed care home within Class C2 and associated access, vehicular parking, landscaping, ancillary infrastructure and other works at Daf Trucks Ltd, Eastern Bypass, Thame OX9 3FB, in accordance with the terms of the application Ref P18/S3143/O, dated 10 September 2018, and subject to the conditions set out in the attached schedule.

### Procedural Matters

2. As detailed above, the development proposed is for a hybrid scheme for full and outline planning permission. Outline planning permission is sought with all matters reserved except access. I have determined the appeal on this basis.
3. A Section 106 Legal Agreement was submitted at the Hearing however, this Agreement was not signed due to an issue with a signatory being unavailable. I allowed a period up to the 28 February 2020 for the appropriate signatures to be added. The final signed Agreement was submitted within the prescribed time.

4. I also allowed a similar timescale for parties to agree and submit a suggested condition relating to a footway link. This condition was also submitted within the prescribed time.
5. The Council have referred to Policy EMP3 of the emerging South Oxfordshire Local Plan (LP) in their statement of case. I have given this policy limited weight in the determination of this appeal as the emerging LP has not yet been adopted.

### **Main Issues**

6. The main issues are the effect of the proposals on employment land and whether the proposals make appropriate provision for affordable housing and on and off-site infrastructure.

### **Reasons**

#### *Employment land*

7. The appeal site comprises primarily of a vacant warehouse unit and a vacant office building which sits within an area of mixed uses, including residential and commercial. The site is an existing employment site and is subject to Policy E6 of the South Oxfordshire Core Strategy 2012 (SOCS). The site is also identified as an employment site in the Thame Neighbourhood Plan 2013 (TNP) and thus covered by Policy WS12 of the TNP.
8. Policy E6 of the SOCS and Policy WS12 of the TNP both state that proposals for the redevelopment of redundant land or buildings in employment use to non-employment uses will be permitted if the existing use is no longer viable. These policies require sites to be marketed at a reasonable price for at least a year.
9. A marketing exercise for the warehouse part of the appeal site has been undertaken which covers a period in excess of a year. This marketing exercise concluded that there was a lack of demand for B class employment use for the warehouse area of the site. The Council consider the marketing exercise to be appropriate in scope and nature in terms of its reference to the warehouse element.
10. The office building part of the appeal site has not been included in the marketing exercise. It has therefore not been demonstrated that the whole of the appeal site is no longer economically viable, and the proposal would fail to be supported by Policy E6 of the SOCS and Policy WS12 of the TNP.
11. However, the office building benefits from an extant Prior Approval<sup>1</sup> for the conversion of the office building into 45 flats under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015. The appellant has referred to this as a "fall back" position and cited it as the reason for not including the office building within the marketing exercise. This extant Prior Approval does not include any pre-commencement planning conditions and does not expire until September 2020. Whilst there is little evidence of a house builder attached to this Prior Approval scheme, the office building is currently empty, and it is a real possibility that building works can commence prior to September 2020 in order to convert the office building

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<sup>1</sup> Local Planning Authority Reference: P17/S2624/PDO

- into residential flats. On this basis, I attach significant weight to the extant Prior Approval scheme.
12. Section 38(6) of the Planning and Compulsory Act 2004 requires that planning applications and appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, I conclude that whilst the proposal would conflict with Policy E6 of the SOCS and Policy WS12 of the TNP, this is outweighed by the fact that the office building part of the appeal site benefits from an extant Prior Approval and the submitted marketing exercise demonstrates that the warehouse part of the site is no longer viable.
  13. I have had regard to comments made by Thame Town Council (TTC) including employment land in the Thame and surrounding area, the viability of the appeal site for employment use, the marketing of the site and loss of jobs. I have considered these matters carefully however, they do not alter my findings as discussed above.
  14. The TTC also made reference to a Court of Appeal Judgement<sup>2</sup>. However, I do not consider the scheme subject of this Judgement to be directly comparable with the scheme subject of this appeal, particularly in regard to type of development. In any case, I have determined the appeal on its own merits.

#### *Affordable housing and infrastructure*

15. A completed Section 106 Agreement has been submitted which details obligations for affordable housing and on and off-site infrastructure including highway junction works, public transport services, travel plan monitoring, public rights of way, on-site open space and play areas, refuse and recycling provision, street naming and numbering, section 106 monitoring, public art provision and local health care provision.
16. It is necessary that I consider these obligations against the three tests set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. All new housing developments brings about demand for affordable housing, open space and play areas, refuse and recycling provision and health care. Given the scale of the development and comments from specialist officers from the Council, there would be a need for highway junction works, contributions towards public transport, travel plan monitoring, street naming and numbering, section 106 monitoring and public art provision. I am therefore satisfied that the proposed contributions would be necessary to make the development acceptable in planning terms. Furthermore, on the evidence before me, they would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. The obligations therefore meet the relevant tests and I am satisfied that the proposal adequately contributes to affordable housing and infrastructure in the area.

#### *Other matters*

17. Concerns have been raised from the TTC and from neighbouring residents and adjacent businesses, which include noise, housing density, effect on trees and ecology, parking provision and effect on surrounding road network. I have given careful consideration to these matters, some of which would be capable of being addressed by planning conditions or at reserved matters stage in any

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<sup>2</sup> New World Payphones Limited v Westminster City Council & SSCLG [2019] EWCA Civ 2250

event, but they do not lead me to a different overall conclusion on the main issues.

### **Conditions**

18. The conditions imposed are those that were agreed by the appellant and the Council at the Hearing. In the interests of precision and clarity I have undertaken some minor editing and rationalisation where necessary.
19. Conditions relating to timeliness, the submission of reserved matters, the overall quantum of development, and the identification of plans are necessary in the interests of proper planning and to provide certainty. In the interests of highway safety conditions are imposed in relation to access arrangement, parking and turning areas. To ensure the development does not compromise the character and appearance of the area, conditions are necessary in relation to materials, levels, housing mix, arboricultural details and landscaping. To safeguard the living conditions of neighbouring occupiers, conditions are necessary in relation to noise protection, hours of operation and restrictions on the use of the proposed buildings. A condition for the submission of a construction method statement would also safeguard living conditions of neighbouring occupiers and be in the interest of highways safety. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage, contamination and ecological matters. In the interests of encouraging sustainable modes of travel, conditions are imposed relating to cycle parking provision, vehicle electric charging points, Sustainable Travel Information Packs and a footway pedestrian link.

### **Conclusion**

20. For the reasons given above I conclude that the appeal should be allowed subject to the appropriate conditions and the relevant terms of the submitted Section 106 Agreement.

*Chris Baxter*

INSPECTOR

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**APPEARANCES**

## FOR THE APPELLANT:

R Warren QC	Counsel
E Ledwidge	Planning Consultant – Montagu Evans
J Good	Appellant – Angle Property
A Dolan	Duncan Bailey Kennedy
D Gannon	Care UK
C Prior	Care UK

## FOR THE LOCAL PLANNING AUTHORITY:

R Green	Counsel
T Smith	South Oxfordshire District Council
P Yoward	South Oxfordshire District Council

## INTERESTED PERSONS:

G Markland	Thame Town Council
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## DOCUMENTS SUBMITTED AT THE HEARING:

1. Court Judgement - New World Payphones Limited v Westminster City Council & SSCLG [2019] EWCA Civ 2250
2. South Oxfordshire District Council Compliance with Community Infrastructure Levy document
3. Section 106 legal agreement (unsigned)

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**Schedule of Conditions**

## Full Planning Permission

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 178963-1008D; PL02 Rev E; PL03 Rev A; PL04 Rev A; PL05; PL06 Rev A; PL07 Rev A; PL08 Rev A; 24020 8086 0001 29 001 Rev 5; MBSK180223-5 Rev B.
- 3) No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until detailed plans showing the existing and proposed ground levels of the site together with the slab and ridge levels of the proposed development, relative to a fixed datum point on adjoining land outside of the application site, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
- 5) No development shall commence until the existing means of access on to the site has been improved (to include tactile surfacing and dropped kerbs) and laid out and constructed strictly in accordance with the local highway authority specifications and all ancillary works specified shall be undertaken. The existing bellmouth access should be modified to give radii of between 6-10m.
- 6) No development shall take place until specification details for a turning area and car parking spaces to be provided within the curtilage of the site have been submitted to and approved in writing by the Local Planning Authority.
- 7) No development of the care home site shall commence (including any works of demolition), until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be complied with throughout the construction period, and shall provide details of the following:
  - (i) A construction traffic management plan;
  - (ii) Vehicle parking facilities for construction workers, other site operatives and visitors;
  - (iii) Site offices and other temporary buildings;
  - (iv) Loading and unloading of plant and materials;
  - (v) Storage of plant and materials used during construction;
  - (vi) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (vii) Wheel washing facilities;
  - (viii) Measures to control the emission of dust and dirt during construction;

- (ix) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
- (x) Measures for the protection of the natural environment.
- 8) No development shall take place until a detailed sustainable drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted and approved by the Local Planning Authority in writing. This should be based on Flood Risk Assessment reference A/APTHAME.10 prepared by Mayer Brown. The scheme should include:
- i) Maintenance and management plan for SuDS features (including details of who will be responsible for maintaining the SuDS and landowner details);
  - ii) Sizing of features – attenuation volume;
  - iii) Infiltration tests undertaken in accordance with BRE365;
  - iv) Detailed drainage layout with pipe numbers (to include direction of flow) and SuDS features;
  - v) Network drainage calculations with consideration given to the worst case 1:100 yr + 40% event;
  - vi) Phasing plans; and
  - vii) Detailed site and floor level plans to include information on exceedance routing.
- Development should be carried out in accordance with the approved details.
- 9) No development shall take place until details of foul drainage provision have been submitted to and approved by the local planning authority in writing. The development and shall be carried out in accordance with the approved details.
- 10) No development shall take place until a detailed scheme for protecting the care home development from the external noise environment of the area [and from internal noise arising from any ventilation plant associated with the development] has been submitted to and approved in writing by the Local Planning Authority. The scheme itself shall be designed, specified and constructed so that the sound insulation performance of the structure, and the layout of the bedrooms, is such that the indoor ambient noise levels do not exceed the values detailed in Table 4 of BS 8233:2014 "Indoor ambient noise levels for dwellings". Thereafter the development shall not be carried out other than in accordance with such approved scheme which shall be completed before any part of the accommodation hereby approved is occupied, unless the Local Planning Authority otherwise agrees in writing.
- 11) No development, including any site works or operations relating to the development hereby permitted, until an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period has been submitted to and approved in writing by the Local Planning Authority.

Written approval must be obtained prior to commencement of any site works including demolition. The matters to be encompassed within the arboricultural method statement shall include the following:

- i) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities;
- ii) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection;
- iii) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
- iv) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby;
- v) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees;
- vi) The details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels;
- vii) The details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the RPA, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage;
- viii) Provision for the supervision of ANY works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development, and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

- 12) The care home development shall not be commenced until a scheme for hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for implementation and a schedule for future maintenance and shall include boundary treatment details. Development shall be carried out in accordance with the approved scheme. Any trees or plants which within a period of 5 years from the completion of the residential development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 13) Prior to the first occupation of the development, the turning area and car parking spaces shall be provided within the curtilage of the site so that motor vehicles may enter, turn around and leave in a forward direction and vehicles may park off the highway. The turning area and parking spaces shall be constructed, laid out), surfaced, drained and completed to be compliant with sustainable drainage (SuDS) principles in strict accordance with the approved specification details.
- 14) Prior to the first use or occupation of the care home, covered cycle parking facilities shall be provided on site in accordance with details in drawing PL02 Rev E. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.
- 15) Prior to the occupation of the development, copies of the Sustainable Travel Information Packs (STIP) for the care home, shall be submitted to and approved in writing by the Local Planning Authority. The approved STIP shall then be provided to each resident and employee of the care home and shall include information on the alternatives to single occupancy car use available to residents, walking and cycle route maps, discounts, and public transport information.
- 16) The care home development hereby permitted shall not be occupied until all works specified in the Delta Simons (2018), Remediation and Verification Strategy, Kingsmead Business Park, Thame, OX9 3FB, dated September 2018, relating to the care home development, have been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the Local Planning Authority.
- 17) The hours of operation for construction and demolition works shall be restricted to 08:00 – 18:00 Monday to Friday and 08:00 – 13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays without the prior written authority of the Local Planning Authority.
- 18) The premises shall be used for care home use only and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

#### Outline Planning Permission

- 1) Details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters" shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) In the case of any reserved matter, application for approval must be made not later than the expiration of 18 months beginning with the date of the grant of outline planning permission.
- 3) The development hereby permitted shall take place not later than 12 months from the date of approval of the last of the reserved matters to be approved, or in the case of approval on different dates, the final approval of the last such matter to be approved.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 178963-1008D; MBSK180223-5 Rev B.
- 5) The reserved matters for the scheme shall be designed to secure an appropriate market housing mix and shall include a Thame specific affordable housing and dwellings mix strategy to demonstrate how the proposal meets identified housing needs in Thame.
- 6) No development of the either the residential or office site shall commence (including any works of demolition), until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be complied with throughout the construction period, and shall provide details of the following:
  - (i) A construction traffic management plan;
  - (ii) Vehicle parking facilities for construction workers, other site operatives and visitors;
  - (iii) Site offices and other temporary buildings;
  - (iv) Loading and unloading of plant and materials;
  - (v) Storage of plant and materials used during construction;
  - (vi) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (vii) Wheel washing facilities;
  - (viii) Measures to control the emission of dust and dirt during construction;
  - (ix) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
  - (x) Measures for the protection of the natural environment.
- 7) No development shall take place until a detailed sustainable drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted and approved by the Local Planning Authority in writing. This should be based on Flood Risk Assessment reference A/APTHAME.10 prepared by Mayer Brown. The scheme should include:
  - i) Maintenance and management plan for SuDS features (including details of who will be responsible for maintaining the SuDS and landowner details);
  - ii) Sizing of features – attenuation volume;
  - iii) Infiltration tests undertaken in accordance with BRE365;
  - iv) Detailed drainage layout with pipe numbers (to include direction of flow) and SuDS features;
  - v) Network drainage calculations with consideration given to the worst case 1:100 yr + 40% event;
  - vi) Phasing plans; and

vii) Detailed site and floor level plans to include information on exceedance routing.

Development should be carried out in accordance with the approved details.

- 8) No development shall take place until details of foul drainage provision have been submitted to and approved by the local planning authority in writing. The development and shall be carried out in accordance with the approved details.
- 9) For every 10 residential homes built and 1000m<sup>2</sup> of non-residential development (i.e. care home and office) there shall be at least 1 'rapid charge' EV charging point installed. Where on-site parking is provided for residential dwelling, EV charging points for each parking space shall be made.
- 10) No development shall take place (including any ground works or site clearance) until a method statement for reptile protection and translocation has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:
- i) Purpose and objectives for the proposed works;
  - ii) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
  - iii) Extent and location of proposed works including on-site and off-site translocation shown on appropriate scales maps and plans;
  - iv) Trigger points for the transition between on-site and off-site translocation;
  - v) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - vi) Persons responsible for implementing the works;
  - vii) Initial aftercare and long-term maintenance for on-site and off-site receptor areas;
  - viii) Disposal of any wastes arising from works;
  - ix) Details of population monitoring post translocation for a period of two years to be submitted to LPA.

The translocation and long term maintenance of on-site and off-site receptor areas shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

- 11) No development shall take place until a detailed scheme for protecting the dwellings from the external noise environment of the area [and from internal noise arising from any ventilation plant associated with the development] has been submitted to and approved in writing by the Local Planning Authority. The scheme itself shall be designed, specified and constructed so that the sound insulation performance of the structure, and the layout of the dwellings, is such that the indoor ambient noise levels do not exceed the values detailed in Table 4 of BS 8233:2014 "Indoor ambient noise levels for dwellings". Thereafter the development shall not be carried

out other than in accordance with such approved scheme which shall be completed before any part of the accommodation hereby approved is occupied, unless the Local Planning Authority otherwise agrees in writing.

- 12) No development or any site works or operations relating to the development hereby permitted, shall take place until an arboricultural method statement to ensure the satisfactory protection of retained trees during the construction period shall be submitted to and approved in writing by the Local Planning Authority. Written approval must be obtained prior to commencement of any site works including demolition. The matters to be encompassed within the arboricultural method statement shall include the following:
- i) A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities;
  - ii) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection;
  - iii) The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage;
  - iv) The means of demolition of any existing site structures, and of the reinstatement of the area currently occupied thereby;
  - v) The specification of the routing and means of installation of drainage or any underground services in the vicinity of retained trees;
  - vi) The details and method of construction of any other structures such as boundary walls in the vicinity of retained trees and how these relate to existing ground levels;
  - vii) The details of the materials and method of construction of any roadway, parking, pathway or other surfacing within the RPA, which is to be of a 'no dig' construction method in accordance with the principles of Arboricultural Practice Note 12 "Through the Trees to Development", and in accordance with current industry best practice; and as appropriate for the type of roadway required in relation to its usage;
  - viii) Provision for the supervision of ANY works within the root protection areas of trees to be retained, and for the monitoring of continuing compliance with the protective measures specified, by an appropriately qualified arboricultural consultant, to be appointed at the developer's expense and notified to the Local Planning Authority, prior to the commencement of development, and provision for the regular reporting of continued compliance or any departure there from to the Local Planning Authority.

Thereafter the development shall be carried out in accordance with the approved details with the agreed measures being kept in place during the entire course of development.

- 13) The development shall not be occupied until all works specified in the Delta Simons (2018), Remediation and Verification Strategy, Kingsmead Business Park, Thame, OX9 3FB, dated September 2018 have been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the Local Planning Authority.
- 14) The hours of operation for construction and demolition works shall be restricted to 08:00 – 18:00 Monday to Friday and 08:00 – 13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays without the prior written authority of the Local Planning Authority.
- 15) The total number of dwellings shall not exceed 129.
- 16) The premises shall be used for offices and for no other purpose (including any other purpose in Class B1a of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 17) Prior to occupation of the seventy fifth residential unit details of the footpath connection through the approved housing development linking the section of footpath that runs south from Towersey Road to the application site behind properties fronting on to Towersey Drive to public footpath 383/13 and the Phoenix Trail shall be submitted to and approved in writing by the local planning authority. The footpath shall be developed in accordance with the approved details.




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## Appeal Decision

Site visit made on 16 March 2020

**by Martin Chandler BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 April 2020**

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**Appeal Ref: APP/Q3115/W/18/3208665**

**Wallingford Portcullis Social Club, 28 & 29 Goldsmiths Lane, Wallingford OX10 0DU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Winslade Investments (Wallingford) Ltd against the decision of South Oxfordshire District Council.
  - The application Ref P18/S0003/FUL, dated 21 December 2017, was refused by notice dated 20 June 2018.
  - The development proposed is Demolition, Part demolition, redevelopment and Change of Use of the Portcullis Club building & No29 to provide 14 residential units. Eight two-bedroom houses, three two-bedroom flats and three one-bedroom flats.
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### Decision

1. The appeal is allowed and planning permission is granted for the Demolition, Part demolition, redevelopment and Change of Use of the Portcullis Club building & No29 to provide 14 residential units. Eight two-bedroom houses, three two-bedroom flats and three one-bedroom flats, at Wallingford Portcullis Social Club, 28 & 29 Goldsmiths Lane, Wallingford OX10 0DU, in accordance with application reference P18/S0003/FUL, dated 21 December 2017, and subject to the conditions in the attached schedule.

### Application for costs

2. An application for costs has been made by Winslade Investments (Wallingford) Ltd against the decision of South Oxfordshire District Council. This is the subject of a separate decision.

### Procedural Matter

3. Since the appeal was submitted, the Secretary of State has directed the Council to progress its emerging plan with the aim for adoption by the end of 2020. As a consequence, the South Oxfordshire Local Plan 2034 is now progressing to examination.
4. Paragraph 48 of the National Planning Policy Framework (the Framework) confirms that weight can be given to emerging plans according to the state of preparation, the extent to which there are unresolved objections, and the degree of consistency of the relevant policies with the Framework. In this instance, because the plan has not yet been through examination and I am unaware of any unresolved objections, I have not given any weight to the emerging policies in my assessment of the appeal.

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**Main Issue**

5. The main issue is the effect of the proposal on highway safety, having particular regard to car parking provision and pedestrian movements.

**Reasons**

6. The proposal would provide 14 new dwellings but would not provide on-site car parking provision. The surrounding road network has a substantial number of parking restrictions and therefore, if future residents were to own a car, their ability to park near the site would be significantly restricted. As a consequence, both the Council and a number of neighbouring properties consider that the proposal would give rise to highway safety concerns derived from unsafe parking.
7. The proposal has been identified by the appellant as being suitable for car-free development, but such a restriction could not be reasonably secured through the appeal process. As a consequence, I give no weight to this matter in my assessment of the appeal. However, the proposal would include a significant number of cycle parking spaces on site. The site is also located close to good public transport links which, as will be discussed further below, the proposal would contribute towards improving through suitable and proportionate financial contributions. In addition, the site is located within walking distance of shops, schools and medical services. Cumulatively, I am satisfied that these matters would decrease the reliance of future residents on the private car.
8. Despite this, car ownership cannot be ruled out and therefore any cars owned by future residents would have to be located somewhere. However, this would be directly influenced by local parking restrictions and the lack of opportunity to park cars would not automatically mean that indiscriminate car parking would take place or that it would be harmful to highway safety. The concerns in relation to car parking are noted but I have to determine the appeal on the basis of substantive evidence. On this point, nothing compelling or substantive has been put before me to demonstrate that highway safety would be compromised as a consequence of the proposed development having regard to car parking.
9. The lack of opportunities to park on or close to the appeal site may be an inconvenience for future occupants, but there is nothing compelling before me to confirm that this would give rise to indiscriminate and unsafe parking of cars. Moreover, if parking were to occur in areas where parking restrictions already apply, this could be readily enforced outside of the planning system. Accordingly, I can give this matter very little weight in my assessment of the appeal. Consequently, having regard to car parking provision, the proposal would not be harmful to highway safety.
10. Having regard to pedestrian safety, the access road adjacent to the site is narrow with restricted footpath provision in certain areas. As a consequence, future occupants accessing the site by foot may have to cross the road to ensure access on footpaths. However, the site has historically been used as a social club and consequently, such pedestrian movements would not be unique to the proposed conversion.
11. Nevertheless, due to the nature of the proposed use, including the lack of on-site car parking, the proposal may increase pedestrian movements to and

from the site. Accordingly, the proposal would introduce new elements of footpath including the creation of an 'arcade' style opening within the built form. This would represent a material enhancement in the provision of footpaths adjacent to the appeal site. As a consequence, having regard to the previous use and the existing situation, I am satisfied that the proposal would increase the opportunities for safe pedestrian movement.

12. The proposal would also generate other movements to and from the site, including delivery and removal lorries. However, the existing use would have generated movements of a similar nature and I have not been made aware of this giving rise to genuine highway safety concerns. Accordingly, I am satisfied that the proposal would not materially alter this type of vehicular movements in the locality.
13. Therefore, having particular regard to car parking provision and pedestrian movements, for the reasons identified above, I conclude that the proposal would not have a harmful effect on highway safety. Accordingly, it would comply with Policies CSWAL1 of the South Oxfordshire Core Strategy (2012) and Saved Policies G2, D2, H4, T1 and T2 of the South Oxfordshire Local Plan 2011. Taken together, these seek amongst other things, housing on suitable infill and redevelopment sites where there are no highway objections, and where they are accessible by public transport.

### **Section 106 Legal Agreement**

14. The appeal has been accompanied by a legal agreement to secure a financial contribution towards the improvements of bus services along the A4074 corridor. The contribution was not sought by the Council in their determination of the original application due to an assessment in relation to the financial viability of the proposal. However, I have no evidence before me in relation to this matter and consequently, I have to assess the need for the agreement on its individual merits.
15. The financial contribution would be used to improve bus services by increasing their frequency and hours of operation. Specifically, it would help increase provision from half hourly buses to four buses per hour on services to Oxford, Henley and Reading. This is to enable residents to have access to a credible level of public transport and to provide a choice for travel options.
16. I note the appellant's comments in relation to existing capacity on these services. However, based on the evidence before me, the County Council's requirement is to increase frequency rather than to increase capacity. Whilst one certainly has a bearing on the other, I am satisfied that increasing the number of buses each hour would improve the choice offered to the public. The contribution would provide revenue rather than capital, however, I have no reason to consider that the proposed strategy of the County Council will not be successful over the long term. Moreover, due to the lack of car parking opportunities provided by the development, improvements to existing public transport take on a heightened importance.
17. Consequently, based on the evidence before me, I am satisfied that the proposed contribution would comply with the requirements of the CIL Regulations 2010.

18. Despite this, the agreement has been presented as 3 separate documents, each individually signed. I therefore do not have a fully completed agreement before me with all signatories in one place. Accordingly, I can have no confidence that the agreement is actually legally binding and will deliver the necessary mitigation.
19. The difficulties in relation to signing and witnessing the agreement in the current circumstances are noted. In addition, based on the evidence before me, it is clear that all parties have agreed the content and specifics of the agreement. It is therefore a transparent document and the willingness of the parties to complete the agreement in a timely manner cannot be disputed. Accordingly, due to the specifics around the case, and due to the level of work that has taken place to this date, I am satisfied that the circumstances justify the use of a negatively worded condition to ensure that a suitable planning obligation is entered into prior to development commencing. In arriving at this conclusion, I have had regard to the advice within the Planning Practice Guidance, and I also note that the main parties are content with such an approach.

### **Other Matters**

20. The proposed conversion would provide amenity space for many of the proposed dwellings and suitable refuse and cycle storage areas would also be provided. In addition, the living accommodation proposed would not be contrived or cramped. Accordingly, there is nothing compelling within the evidence before me to suggest the proposal would represent an overdevelopment of the site.
21. Due to the narrow width of Goldsmiths Lane, windows in the proposed conversion would be close to those of the properties opposite. Many of the facing windows would be high level, however, due to the close proximity, a condition is necessary to ensure that these windows are glazed with obscure glass so as to preserve living conditions for existing neighbouring residents. The proximity of adjacent neighbours also provides suitable justification for a condition to control the demolition and construction phases of the proposed development.
22. The site is located within the Wallingford Conservation Area (CA). Accordingly, based on the evidence before me, I am satisfied that the proposal would respond successfully to the simple former industrial character of the CA. Therefore, as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal would preserve the character and appearance of the area. It would also preserve the setting of the adjacent Scheduled Monument.

### **Conditions**

23. In light of my findings set out above, conditions are necessary in the interests of precision and clarity to establish the time limit for commencing development and the approved drawing numbers. Condition 3 is also necessary for the reasons identified above.
24. Condition 4 is necessary to ensure biodiversity is not compromised, and condition 5 is necessary to ensure the development is served by appropriate refuse and recycling provision. To ensure that the living conditions of

neighbouring occupants are not compromised, condition 6 is necessary to manage the construction phase of the development. Condition 7 is also necessary in the interests of flood risk.

25. Due to the potential archaeological sensitivities of the site, condition 8 should be attached, and to suitably manage the risk of contaminated land, conditions 9 and 10 are necessary. Conditions 11 and 12 are necessary to promote sustainable forms of transport and condition 13 is necessary to ensure that any lighting does not harm living conditions.
26. Due to the location of the site and the intricate nature of the proposed layout, I am satisfied that suitable justification exists to remove permitted development rights for householder development. Accordingly, condition 14 is necessary.
27. Condition 15 is necessary to ensure suitable living conditions for future occupants, condition 16 is necessary due to the heritage sensitivities of the site, and condition 17 is necessary to protect the living conditions of occupants of neighbouring properties. Finally, condition 18 is necessary to ensure that the development is complementary to the existing building.
28. Some of the attached conditions require work to be carried out prior to the commencement of development. However, through the draft statement of common ground provided by the appellant, they have confirmed their agreement to these requirements.

### **Conclusion**

29. For the reasons identified above, the appeal is allowed.

*Martin Chandler*

INSPECTOR

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SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the details shown on the following approved plans: A001 Revision A; A002 Revision A; A100 Revision F; A101 Revision E; A102 Revision E; A103 Revision E; A104 Revision B; Sk200; A200 Revision E; A201 Revision F;
- 3) No development shall commence until a scheme for the improvement of bus services along the A4074 corridor has been submitted to and approved in writing by the local planning authority. The improvements shall be provided in accordance with the approved scheme.
- 4) The development hereby permitted shall be implemented in accordance with the scheme of enhancement, as stated in section 6 of the supporting Bat Survey Report (Ecology By Design Ltd, September 2016, Project Code: EBD00176) submitted with the application in all respects.
- 5) No development shall take place until details of refuse and recycling storage have been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage shall be implemented in accordance with the approved details prior to the first occupation of the development hereby approved and retained thereafter.
- 6) Prior to the commencement of any development (including demolition works), a Construction Method Statement, incorporating a Construction Traffic Management Plan) shall be submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be complied with throughout the construction period, and shall provide details of the following:
  - vehicle parking facilities for construction workers, other site operatives and visitors;
  - site offices and other temporary buildings;
  - loading and unloading of plant and materials;
  - storage of plant and materials used during construction;
  - vehicle wheel washing facilities;
  - measures to control the emission of dust and dirt;
  - a scheme for recycling and/or disposing of waste materials arising from the demolition and construction works;
  - installation and maintenance of security hoarding/fencing;
  - hours of operation for construction and demolition works.
- 7) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
  - Discharge Rates
  - Discharge Volumes

- Maintenance and management of SUDS features (including contact details of any management company)
  - Sizing of features - attenuation volume
  - Infiltration in accordance with BRE365
  - Detailed drainage layout with pipe numbers
  - SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
  - Network drainage calculations
  - Phasing
  - Any adjoining properties will need to be protected from surface water flooding as a result of the development & the drainage strategy should include the mitigation measures to be used
  - Any plans must show that there will be no private drainage into the highway drainage system.
- 8) No development shall take place, including demolition works, until an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority. Following the approval of the Written Scheme of Investigation and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.
- 9) No development shall take place, including any demolition works, until a phased risk assessment has been carried out in accordance with current government and Environment Agency Guidance and Approved Codes of Practice. Each phase shall be submitted to and approved in writing by the Local Planning Authority. Phase 3 requires that a remediation strategy be submitted to and approved by the LPA to ensure the site will be rendered suitable for its proposed use.
- 10) No dwelling or flat shall be occupied until any previously approved remediation strategy has been carried out in full and a validation report confirming completion of these works has been submitted to and approved in writing by the Local Planning Authority.
- 11) Prior to first occupation a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.
- 12) Prior to first occupation of the development hereby approved, cycle parking facilities shall be provided in accordance with the details shown on drawing BS-326-100-P2 and maintained thereafter.
- 13) Prior to first occupation of the development hereby approved, an external lighting scheme for the development (for both public and private

areas) shall have been submitted to and approved in writing by the local planning authority.

Details will ensure that all lighting shall be directed downwards to prevent nuisance to adjoining residential occupiers from light spillage and shall be turned on only during the conditioned hours of operation and remain off at all other times.

- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), the enlargement, improvement or other alteration of any dwellinghouse as described in Schedule 2, all classes of Part 1 of the Order shall not be undertaken without obtaining planning permission for the Local Planning Authority.
- 15) Prior to first occupation, details will be submitted to and approved in writing by the local planning authority to demonstrate that all properties have been designed, constructed and maintained to protect the residents of the development from the external noise environment to ensure that the indoor ambient noise levels do not exceed the values detailed in Table 4 of BS 8233:2014 "Guidance on sound insulation and noise reduction for buildings".
- 16) A further photographic record of those areas to be demolished that were not fully captured in the submitted heritage statement shall be carried out during the course of the works and submitted to the Local Planning Authority prior to the occupation of the units.
- 17) All windows in the elevation facing onto Goldsmiths Lane of the block on Goldsmiths Lane hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight, prior to the first occupation of the accommodation and shall be retained as such thereafter.
- 18) All new works and works of making good to the retained internal and external fabric of the building shall be finished to match the adjacent work with regard to the methods used and to material, colour, texture and profile.